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10 IN THE UNITED STATES BANKRUPTCY COURT

11 FOR THE DISTRICT OF OREGON

12 In re

13 Arlie & Company,

14 Debtor.

Case No. 10-60244-aer

**DEBTOR'S MOTION FOR ORDER  
AUTHORIZING PAYMENT OF  
PREPETITION WAGES, SALARIES,  
COMPENSATION, EXPENSES,  
BENEFITS, AND RELATED TAXES,  
AND TO CONTINUE EMPLOYEE  
BENEFITS POSTPETITION**

*EXPEDITED HEARING REQUESTED*

18 Arlie & Company ("Debtor") moves this Court for an order authorizing  
19 payment of any remaining prepetition wages, salaries, compensation, expenses, benefits, and  
20 related taxes, and to continue employee benefits post-petition, and in support thereof states as  
21 follows:

22 1. On January 20, 2010 (the "Petition Date") Debtor filed a Voluntary  
23 Petition for relief under Chapter 11 of Title 11 of the United States Code.

24 2. Debtor has continued in possession of its property and is continuing to  
25 operate and manage its businesses as Debtor-in-Possession pursuant to Sections 1107(a) and  
26 1108 of Title 11 of the United States Code.

1                   3.       The Court has jurisdiction over this matter pursuant to 28 U.S.C.  
2       §§ 157 and 1334. Venue is proper in this district pursuant to 28 U.S.C. §§ 1408 and 1409.  
3       This is a core proceeding pursuant to 28 U.S.C. § 157(b)(2).

4                   4.       No request has been made for the appointment of a trustee or  
5       examiner, and no unsecured creditors' committee has yet been established in this case.

6                   5.       Debtor is an Oregon corporation headquartered in Eugene, Oregon.  
7       Debtor is a commercial and residential real estate developer in Oregon and Hawaii and is a  
8       leader in green building practices. Debtor owns and manages commercial developments and  
9       properties in Oregon and Hawaii. Debtor also owns and manages a number of residential  
10      rental properties in Eugene, Oregon. Prior to the Petition Date, 2911 Tennyson Avenue,  
11      LLC, Arlie Property Management, Inc., Crescent Village Community Gardens, LLC,  
12      Crescent Village Homes, LLC, and Hawaii Forest Products, LLC were merged into and  
13      became a part of Arlie & Company (Debtor). Prior to the merger, all of the membership  
14      interests in and ownership of the merged LLCs and corporations were under common control  
15      of the sole shareholder of Arlie.

16                  6.       Debtor currently has 14 employees (13 full time and 1 seasonal/part  
17      time), with an average payroll of approximately \$70,000 per pay period.

18                  7.       Debtor's employees are paid on the 5th and the 20th of each month.  
19      The next regular payroll date is February 5, 2010. Employees were paid their wages through  
20      January 15, 2010, prior to the filing of the Petition. Because the Petition Date was  
21      January 20, 2010, Debtor has incurred unpaid prepetition obligations for wages, salaries,  
22      expenses, commissions and other employment compensation and benefits for the period prior  
23      to the Petition Date, including, but not limited to, vacation or other paid time off.

24                  8.       The total amount Debtor is obligated to pay for accrued and unpaid  
25      prepetition wages, salaries, expenses, commissions, compensation, taxes, and benefits is  
26      approximately \$10,000. Debtor will not pay, and does not request authority to pay, any

1 person more than the \$10,950 amount of their priority claim as provided by 11 U.S.C.  
 2 §§ 507(a)(4) and (a)(5).

3 9. Debtor requests that this Court enter an order, pursuant to  
 4 Sections 105(a) and 507(a)(4) and (a)(5) of the Bankruptcy Code, authorizing Debtor to  
 5 (a) pay to or for the benefit of its employees incurred prepetition wages, salaries,  
 6 reimbursable employee business expenses, and other compensation on the regularly  
 7 scheduled postpetition pay dates; (b) pay any and all local, state and federal withholding and  
 8 payroll-related taxes relating to prepetition periods, including, but not limited to, all  
 9 prepetition withholding taxes, social security taxes, Medicare taxes, and unemployment  
 10 taxes; (c) pay all court-ordered wage garnishments, including, but not limited to, child  
 11 support and tax garnishments; (d) make accrued prepetition contributions or payments  
 12 directly on account of employee benefits; (e) continue to honor earned but unused vacation  
 13 and other benefits accrued prepetition, (f) continue existing employee benefits post-petition;  
 14 and (g) direct all banks to honor prepetition checks or electronic transfers for payment of the  
 15 prepetition claims and benefits described herein.

16 10. With respect to the accrued and unpaid prepetition employee-related  
 17 obligations described herein, Debtor requests that the Court authorize and direct the banks at  
 18 which Debtor maintains accounts from which their payroll, benefits and related obligations  
 19 are disbursed (the "Banks") to make such payments, and to authorize and direct the Banks to  
 20 honor such checks or fund transfer requests, regardless of whether or not they were issued or  
 21 requested prior to or after the Petition Date. Debtor has on deposit sufficient funds in its  
 22 bank accounts to satisfy any prepetition payroll, benefits, and related obligations for which  
 23 Debtor seeks authority to make immediate payment, so the Banks will not be prejudiced by  
 24 an order directing them to honor Debtor's checks or fund transfer requests with respect to  
 25 such amounts.

26 11. Debtor believes that in order to protect the value of its businesses as

1 going concern, it must honor its prepetition obligations to its employees. A failure to pay  
2 accrued wages, salaries, commissions, expenses, benefits and other related obligations, or  
3 even a delay in such payment, would have a significant negative impact on worker morale  
4 and some employees may not report to work, thereby impairing Debtor's ability to continue  
5 operations.

6 12. Debtor believes the requested relief will enable it to maintain its  
7 current operations without interruption and, at the same time, maintain worker morale. The  
8 employees are vital to Debtor's efforts to reorganize and provide essential services, without  
9 which Debtor would be unable to function. Without the relief requested, Debtor's ability to  
10 preserve its assets for the benefit of all creditors and equity security holders would be  
11 dramatically impaired, and Debtor's efforts to reorganize in a fashion that maximizes the  
12 value of Debtor's estates could be significantly impaired.

13 13. It is in the best interest of Debtor and its creditors for the above-  
14 described wages, salaries, compensation, payroll taxes, and employee benefits to be paid, and  
15 any outstanding payroll checks honored, for the reason that such payments will enable  
16 Debtor to continue to operate its businesses in the ordinary course.

17 14. Debtor has provided notice of this motion to the office of the United  
18 States Trustee, Debtor's secured creditors, and the holders of the 20 largest unsecured claims.  
19 No unsecured creditors' committee has yet been appointed in this case. Further notice is  
20 impracticable and unnecessary due to the number of creditors, the limited issues involved,  
21 and the nature of the payments to be made.

22 15. A copy of the proposed Order is attached as Exhibit 1.

23 WHEREFORE, Debtor prays that this Court enter an order authorizing Debtor  
24 to pay prepetition wages, salaries, compensation, expenses, benefits and payroll taxes, and

25 \* \* \*

26 \* \* \*

1 authorizing and ordering Debtor's Banks to honor any outstanding payroll checks or  
2 electronic transfers.

3 DATED this 21st day of January, 2010.

4 TONKON TORP LLP

5 By /s/ Albert N. Kennedy

6 Albert N. Kennedy, OSB No. 821429

7 Michael W. Fletcher, OSB No. 010448

8 Attorneys for Debtor

033739/00003/1932306v1

# EXHIBIT 1

IN THE UNITED STATES BANKRUPTCY COURT  
FOR THE DISTRICT OF OREGON

In re

Arlie & Company,

Debtor.

Case No. 10-60244-aer

**ORDER AUTHORIZING PAYMENT  
OF PREPETITION WAGES,  
SALARIES, COMPENSATION,  
EXPENSES, BENEFITS, AND  
RELATED TAXES, AND TO  
CONTINUE EMPLOYEE BENEFITS  
POSTPETITION**

THIS MATTER having come before the Court on Debtor's Motion for Order Authorizing Payment of Prepetition Wages, Salaries, Compensation, Expenses, Benefits, and Related Taxes, and to Continue Employee Benefits Postpetition, and the Court having reviewed the Motion and being otherwise duly advised in the premises; now, therefore,

IT IS HEREBY ORDERED that Debtor is authorized to (1) to pay to or for the benefit of its employees incurred prepetition wages, salaries, reimbursable employee business expenses, commissions and other compensation on the regularly-scheduled postpetition pay dates; (2) pay any and all local, state and federal withholding and payroll-related taxes relating to prepetition periods, including, but not limited to, all prepetition withholding taxes, social security

taxes, Medicare taxes, and unemployment taxes; (3) pay all court-ordered wage garnishments, including, but not limited to, child support and tax garnishments; (4) make accrued prepetition contributions or payments directly on account of employee benefits; (5) continue to honor earned but unused vacation and other benefits accrued prepetition, (6) continue existing employee benefits post-petition; and (7) direct all banks to honor prepetition checks or electronic transfers for payment of the prepetition claims and benefits described herein; provided, however, that no employee shall be paid more than the priority amount provided by 11 U.S.C. §§ 507(a)(4) and (a)(5).

IT IS FURTHER ORDERED, that Debtor is authorized to use its existing bank accounts for this payroll and Debtor's banks are authorized and instructed to honor outstanding payroll checks and all prepetition and postpetition checks and electronic transfers for payment of the prepetition claims and benefits described above.

# # # #

Presented by:

TONKON TORP LLP

By \_\_\_\_\_  
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Attorneys for Debtor

cc: List of Interested Parties

033739/00003/1932306v1



**LIST OF INTERESTED PARTIES**

***In re Arlie & Company***  
**U.S. Bankruptcy Court Case No. 10-60244-aer11**

**ECF PARTICIPANTS:**

- Patrick Wade (for Washington Federal Savings) hhecfb@hershnerhunter.com
- United States Trustee ustpreion18.EG.ECF@usdoj.gov

**NON-ECF PARTICIPANTS:**

**US TRUSTEE:**

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**SECURED CREDITORS**

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Eugene OR 97440

Siuslaw Bank  
POB 11529  
Eugene OR 97440

GE Capital  
POB 31001-0802  
Pasadena CA 91110

Summit Bank  
96 East Broadway  
Eugene OR 97401

Umpqua Bank  
POB 1820  
Roseburg OR 97470

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Creswell OR 97426

**TOP 20 UNSECURED CREDITORS**

Balzhiser & Hubbard Inc  
100 West 13th Ave  
Eugene OR 97401

Burr, Pilger & Mayer LLP  
Two Palo Alto Square  
Palo Alto CA 94306

Century Bank  
POB 769  
Eugene OR 97440

Cessna Aircraft Co  
23260 Network Pl  
Chicago IL 60673-1232

City of Veneta  
88184 8th St  
Veneta OR 97487

Comfort Flow Heating  
1951 Don St  
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Eugene Sand & Gravel Inc  
POB 1067  
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Gartland Nelson McCleery  
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